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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,178	07/19/2002	Walid N Aboul-Hosn	9261.17142-PCT US	4598

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EXAMINER

BIANCO, PATRICIA

ART UNIT PAPER NUMBER

3762

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/070,178

Applicant(s)

ABOUL-HOSN ET AL.

Examiner

Patricia M Bianco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 4-13 and 18-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Rom et al. (5,746,709). Rom et al. disclose an intravascular pump assembly comprising a pump having a rotor mounted inside the pump body (shroud) and wherein at least one cannula or catheter is connected to the pump. The pump body has a defined lumen. The pump rotor is connected to a drive mechanism by a drive cable inside a cable sheath. See entire document.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rom et al. ('709). Rom et al. substantially disclose an intravascular pump assembly comprising a pump having a rotor mounted inside the pump body (shroud) and wherein at least one cannula or catheter is connected to the pump. The pump body has a defined lumen. The pump rotor is connected to a drive mechanism by a drive cable inside a cable sheath. The catheter has a lumen that is open from the distal to the proximal ends. Further, Rom teaches of inserting the end of the catheter, having the other end of said catheter attached to the pump assembly, into an incision upstream of the vessel of interest (here the aorta). It is widely practiced and well known in the art to insert a catheter or cannula into a vessel over a guidewire. Therefore, it would have been obvious to one having ordinary skill in the art, at the time of the invention, to use a guidewire as the guide mechanism, by passing said guidewire through the lumen of the catheter, for insertion of the catheter into the vessel of interest.

Allowable Subject Matter

Claims 14-13 and 18-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the

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limitations of the base claim and any intervening claims. With respect to claim 4 (and its dependents 5, 9, 10, & 20-23) an intravascular pump having a guide comprising a catheter attached to a shroud in combination with the other elements of the claim is not taught by the prior art; with respect to claim 6 (and its dependents 7 & 8) an intravascular pump having a purge fluid delivery system for supplying purge fluid to the rotor in combination with the other elements of the claim is not taught by the prior art; and with respect to claim 11 (and its dependents 12 & 13) an intravascular pump having a blood pressure detection system in combination with the other elements of the claim is not taught by the prior art.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rosenberg (5,692,882) discloses an analogous blood pump.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia M Bianco whose telephone number is (703) 305-1482. The examiner can normally be reached on Monday to Friday 9:00-6:30, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (703) 308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 30th, 2004

Patricia M Bianco
Primary Examiner
Art Unit 3762


PATRICIA BIANCO
PRIMARY EXAMINER